



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

8/4/2015

RPMHC, LLC dba Rustic Pines MHP  
17748 Rock Creek Road  
Thompson, OH 44086

RE: Directors Final Findings & Orders  
NPDES  
Geauga County  
3PV00076

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings and Orders in the referenced matter.

Sincerely,

A handwritten signature in black ink that reads "Ed Swindall". The signature is written in a cursive, flowing style.

Ed Swindall, Supervisor  
Permit Processing Unit  
Division of Surface Water

ERS/dks

Enclosure

**CERTIFIED MAIL**

cc: M. Mann, DSW  
R. DeMuth, DSW  
B. Schuch, DSW  
L. Reeder, DSW  
A. Ward, DSW  
D. Stoll, NEDO/DSW  
Compliance Section  
M. McCarron, PIC  
H. Griesmer, PIC  
B. Fischbein, Legal  
M. Horvitz, Legal  
P. Fallah, DEFA  
Journal Room  
File

OHIO E.P.A.

BEFORE THE

AUG -4 2015

OHIO ENVIRONMENTAL PROTECTION AGENCY

REVISED DIRECTOR'S JOURNAL

In the Matter of:

RPMHC, LLC, dba :
Rustic Pines Mobile Home Park :
17748 Rock Creek Rd. :
Thompson, Ohio 44086 :

Director's Final Findings and Orders

Respondent

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the Parties hereto as follows:

By: [Signature] Date: 8-4-15

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to RPMHC, LLC, dba Rustic Pines Mobile Home Park ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the ownership of the Facility described in Finding No. 1 of these Orders shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

- 1. Respondent owns and operates the Rustic Pines Mobile Home Park located at 17748 Rock Creek Road, Thompson, Geauga County, Ohio 44086 ("Facility"). The Facility is licensed for 139 lots, but is not fully occupied.
2. The Facility is currently served by a wastewater treatment plant ("WWTP") which consists of a trash trap, aeration and clarification, dosing chamber, surface sand

filters, chlorination and dechlorination. The WWTP discharges "sewage," "industrial waste," and/or "other wastes," as defined in ORC § 6111.01, to Mill Creek, which is a tributary to the Grand River. Mill Creek and the Grand River are "waters of the state" as defined in ORC § 6111.01.

3. The previous owner of the Facility, Rustic Pines Community, LLC, was issued Ohio National Pollutant Discharge Elimination System ("NPDES") permit No. 3PV00076\*DD for the discharge from the Facility. The permit became effective November 1, 2009 and expired October 31, 2014. A permit renewal application was submitted on March 11, 2014.
4. Ohio EPA conducted inspections of the Facility for compliance with the NPDES permit, ORC Chapter 6111 and rules adopted thereunder on October 31, 2003, March 29, 2005, June 13, 2005, September 22, 2008, July 22, 2009, August 28, 2012, April 23, 2014, and December 3, 2014.
5. Following the inspections listed in Finding No. 4, Ohio EPA sent notices of violation ("NOVs") or letters enumerating violations to Rustic Pines Community, LLC on March 4, 2004, June 15, 2005, September 29, 2008, July 23, 2009, September 12, 2012, and April 28, 2014. Another NOV was sent on June 17, 2014.
6. The March 4, 2004 letter and inspection report rated the WWTP unsatisfactory, noting in particular that the sand filter walls were crumbling. The letter also stated that monthly operating report data had not been submitted for March and April 2003, no residual chlorine data had been submitted in 2002 or 2003, and flow monitoring was not completed on a daily basis. The letter listed numerous violations of effluent limitations in the NPDES permit.
7. The June 15, 2005 letter described the WWTP and its operation and maintenance as unsatisfactory.
8. The September 29, 2008 letter described improvements to the condition of the WWTP and its maintenance, but also noted violations of effluent limitations in the NPDES permit, chlorine being of most concern.
9. The July 23, 2009 letter noted some problems with operation and maintenance of the WWTP and listed numerous violations of effluent limitations in the NPDES permit.
10. The September 12, 2012 letter stated that the Facility was in significant noncompliance for the number and severity of effluent violations during the

previous six months. The letter did note that some of the violations may be due to sampling error and recommended that the Facility obtain a refrigerator to properly maintain the samples. The letter also recommended that Rustic Pines Community, LLC perform a complete sewer system evaluation to determine sources of inflow and infiltration. The letter noted that Rustic Pines Community, LLC had obtained a certified operator for the WWTP.

11. The April 28, 2014 notice of violation ("NOV") described the WWTP and its operation and maintenance as unsatisfactory, and listed hundreds of violations of effluent limitations and monitoring frequency requirements in the NPDES permit. It stated that the Facility was in significant noncompliance for the number and severity of effluent violations during the previous six months, and for the violations of nitrogen ammonia during the previous six months. The NOV requested that Rustic Pines Community, LLC complete a sanitary sewer evaluation of the collection system and a comprehensive engineering performance evaluation of the WWTP. A meeting to discuss this was requested, but Rustic Pines Community, LLC did not respond to this request.
12. The June 17, 2014 NOV notified Rustic Pines Community, LLC that the Facility was in significant noncompliance for the number and severity of effluent violations that have accumulated. In addition, the NOV stated that Rustic Pines Community, LLC had not responded to the April 28, 2014 within fourteen days of its receipt as requested, and therefore, the matter was being referred for enforcement action.
13. During the December 3, 2014 inspection, Ohio EPA noticed that one elapsed time meter for the dosing pumps and the majority of the grates on the aeration and settling tanks were missing.
14. The Facility has had re-occurring violations of total suspended solids, CBOD5, and ammonia effluent limitations in the NPDES permit. Rustic Pines Community, LLC exceeded final effluent limitations in its NPDES permit or violated sampling and reporting frequency requirements on numerous occasions from January 2009 through July 2014. Rustic Pines Community, LLC's failure to comply with the final effluent limitations and sampling and reporting frequency requirements in the NPDES permit violated the permit and ORC §§ 6111.04 and 6111.07. Each day of violation constitutes a separate offense.
15. It is believed that infiltration and inflow problems in the sewer system at the Facility are the leading cause of the Facility's operational problems and permit violations.

16. On March 20, 2015, ownership of the Facility was transferred from Rustic Pines Community, LLC to Respondent due to Rustic Pines Community, LLC defaulting on the mortgage loan. Respondent submitted an NPDES permit application on June 2, 2015.
17. Respondent contracted with a Class I certified operator for operation and maintenance of the WWTP.
18. Pursuant to ORC § 6111.04(A), no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a valid, unexpired permit.
19. Pursuant to ORC § 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
20. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.
21. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install ("PTI") requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
22. This document does not modify NPDES permit No. 3PV00076\*DD. The purpose of these Orders is to correct noncompliance with permit No. 3PV00076\*DD and not to alter said permit. No penalty is included in the Orders because Respondent is not being held responsible for violations by the former owner of the Facility.
23. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
24. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the

people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

## V. ORDERS

1. From the effective date of these Orders, Respondent shall comply with OAC Rule 3745-7-02(A)(2), by ensuring an operator of record with a valid Class 1 certification or above is employed or under contract to oversee the technical operation of the WWTP.
  - a. Respondent shall submit to Ohio EPA, in accordance with Section X. of these Orders, an Operator of Record Notification Form in the event of a change in Respondent's certified operator.
  - b. If Respondent enters into a contract with a certified operator, it shall meet the requirements in OAC 3745-7-02(D).
  - c. Respondent shall require its operator of record to meet the minimum staffing requirements in OAC 3745-7-04(C)(1).
  - d. Respondent shall require its operator of record to meet the recordkeeping requirements and other responsibilities in OAC 3745-7-09.
  
2. Respondent shall achieve and maintain compliance with the final effluent limitations in NPDES permit No. 3PV00076\*DD, and any successor permit, by taking the following actions as expeditiously as practicable, but not later than the following schedule:
  - a. Upon the effective date of these Orders, Respondent shall immediately commence the following evaluations which shall be conducted by a professional engineer:
    - i. An evaluation of the sanitary sewer collection system which includes, but is not limited to, smoke testing and televising the sewer collection system, in order to map out the collection system and determine the sources or causes of excessive inflow and infiltration ("I/I");
    - ii. A comprehensive engineering performance evaluation of the WWTP which shall determine the condition and treatment efficiency and effectiveness of each treatment component of the WWTP.

- b. By no later than six (6) months after the effective date of these Orders, Respondent shall submit to Ohio EPA for concurrence, in accordance with Section X. of these Orders, a report on the results of the evaluations of the Facility's existing WWTP and sanitary sewer collection system required by Order 2.a. The report shall include recommended actions for eliminating I/I and any other proposed improvements to the collection system, all recommended WWTP improvements necessary to achieve and maintain consistent compliance with the effluent limitations in NPDES permit No. 3PV00076\*DD and any successor permit, and a schedule for implementing the recommended actions and improvements for both the collection system and WWTP.
- c. Within fourteen (14) days of receipt of notification of comments or deficiencies from Ohio EPA on the report required by Order 2.b., Respondent shall provide to Ohio EPA, in accordance with Section X. of these Orders, a response addressing any comments or deficiencies and/or submitting any requested revisions to the recommended actions or improvements or the schedule.
- d. Upon Ohio EPA's concurrence with the report, Respondent shall implement the actions and improvements recommended in the report that do not require a permit to install ("PTI") from Ohio EPA in accordance with the schedule included in the report as accepted by Ohio EPA.
- e. Within twelve (12) months from the effective date of these Orders, Respondent shall submit to Ohio EPA, in accordance with Section X. of these Orders, approvable detailed plans and a complete PTI application for any necessary WWTP or sanitary sewer collection system improvements that require a PTI from Ohio EPA.
- f. Within fourteen (14) days of receipt of notification of comments or deficiencies from Ohio EPA on the PTI required by Order 2.e., Respondent shall provide to Ohio EPA, in accordance with Section X. of these Orders, a revised PTI application and detailed plans addressing the comments or deficiencies.
- g. Within twenty-four (24) months from the effective date of these Orders, Respondent shall complete construction of any approved WWTP and sanitary sewer collection system improvements in accordance with the approved PTI, and achieve compliance with the final effluent limitations in NPDES permit No. 3PV00076\*DD or any successor permit.

- h. Within seven (7) days of completion of Orders 2.d. and 2.g., Respondent shall notify Ohio EPA in accordance with Section X. of these Orders.
3. Within thirty (30) days from the effective date of these Orders, Respondent shall replace all equipment missing from the WWTP, including but not limited to one elapsed time meter for the dosing pumps, and the grates on the aeration and settling tanks.
4. Respondent shall comply with the terms and conditions of NPDES permit No. 3PV00076\*DD and any successor permits.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

This certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(E).

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Facility.

### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to the Facility.

### **IX. MODIFICATIONS**

These Orders may be modified by the agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Surface Water  
Attn: DSW Enforcement Unit Supervisor  
2110 East Aurora Road  
Twinsburg, Ohio 44087

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only those violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

RPMHC, LLC, dba  
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Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

### **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

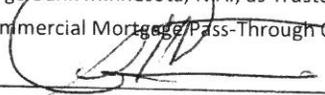
  
\_\_\_\_\_  
Craig W. Butler  
Director

8/2/15  
Date

**IT IS SO AGREED:**

**RPMHC, LLC, dba  
Rustic Pines Mobile Home Park**

By: ORIX Capital Markets, LLC, as Special Servicer of Wells Fargo Bank, N.A., Successor-In-Interest to Wells Fargo Bank Minnesota, N.A., as Trustee for Registered Holders of Bank of America Commercial Mortgage Inc., Commercial Mortgage Pass-Through Certificates, Series 2003-2

  
\_\_\_\_\_  
Signature

7/19/15  
Date

Scott Cronister  
\_\_\_\_\_  
Print Name

Managing Director  
\_\_\_\_\_  
Title